8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

lowered very slowly and carefully by the crowd at the top. 671
Here again it is difficult to ascertain exactly what happened, 672
as the evidence was again contradictory. Apparently, when 682
Ahmed reached the ledge at half-way, he fumbled about in the dim light for the foot holes; and just at this psychological moment the rope broke.

The ten men holding the rope at the top collapsed one on the top of another; but when they had recovered their presence of mind, they shouted down to Ahmed, to ask if he were all right. A faint voice from the bowels of the earth replied that he had fallen heavily on a stone and had had a nasty knock, but that he would be all right in a few minutes.

They then produced a spare rope for another man to go down and get Ahmed up; but they discovered that the only one they had to hand was too short by several feet. A man was sent post-haste on a pony to get another rope from the encampment a mile or so away, and when he returned after a quarter of an hour, volunteers were quickly forthcoming to go down and retrieve Ahmed. On reaching the bottom they found that the unfortunate man, either stunned by the fall or overcome by foul air, had collapsed flat on the bottom of the well, and had been drowned in six inches of water. They hauled his body up to the surface, and Ali, terrified that he might be held in some way responsible, counselled all present to bury the dead man then and there, and to say nothing about it. However, news quickly spreads; and the same day an informer came [123] to the police post and reported the matter, and Ali was arrested and subsequently sentenced to three months' imprisonment with labour by the present writer, for failure to notify a death under unusual circumstances. (Incidentally this did not constitute an offence under Bedouin [177] Law, but was a contravention of the Police Code and was punished as such. Hence the apparent interference in a purely Bedouin concern.)

While Ali was still serving his sentence, Ahmed's rela- [694]

8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

671 tives lost no time in taking legal proceedings at the Ourfi
672 court to claim bloodmoney from the owner of the cistern;
682 and on Ali's release from prison a very long and excessively
694 tedious lawsuit began.

The principle that a life had been lost and must be paid for was accepted without question by the court from the outset, in spite of the police enquiry, which is the local equivalent of a coroner's inquest. The enquiry had established beyond any shadow of doubt that death had been caused by misadventure, and that Ali was absolutely innocent, not only of any intent to kill, but also of any negligence whatsoever. Any other coroner's jury in the world would have returned a verdict of accidental death, expressed sympathy with the relatives, and absolved all concerned from blame; and there the matter would have ended.

671 Ali, who had already undergone three months in durance
672 vile—which, to a wandering child of the desert, must be
682 particularly galling—so far forgot any tribal instruction he might have had as to repudiate vigorously any responsibility either for the accident or for the restitution of the death in the form of bloodmoney. His family also, who would naturally have to share the payment, did their best to confound the issue by lodging a counter claim. They protested that the actual rope that broke was not theirs, but belonged to a third party, and that neighbouring tribes, who had approved of the project and who stood to benefit by the cistern when it was cleaned out, were conjointly responsible with themselves for any payment due.

The case dragged on unsatisfactorily for some months; the neighbouring tribes swore that no agreement existed whereby they should benefit by the cistern when completed; the question of the ownership of the rope was dropped; and eventually Ali and his family were ordered to pay a reduced scale of bloodmoney to the family of the deceased.

683 Sometimes these bloodmoney cases, so far from being
672 dramatic or nauseating, are actually rather amusing.

8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

BLOODMONEY—WESTERN DESERT 67

The plaintiff was an Arab called Salem Ibrahim, who brought an action against a man of another family of his tribe called Ali. The plaint was as follows. Seven years ago Salem's father Ibrahim, a man then about sixty years old, was sitting on a wall near a patch of cultivation belonging to Ali, and watching Ali working on his land. Some dispute arose between them; and, angered at something that Ibrahim had said, Ali picked up a large stone and flung it at Ibrahim. The impact broke the old man's leg; the case was reported to the police; Ali was arrested and imprisoned; and Ibrahim was taken to hospital, where he shortly afterwards died. Ali was thus left in prison, and the case could not be proceeded with from the Ourfi standpoint until he came out. On his release, therefore, the case was to be brought up for settlement, and the plaintiff to claim bloodmoney for his father's death.

Meanwhile, however, plaintiff related how his own family had wanted to get the case cleared up and how Ali's family had also approached them with the idea of extracting Ali from the clutches of the police, so that the case could be tried by an Ourfi court, and a judgment which would be intelligible and acceptable to both parties could be given by their own sheikhs.

Accordingly they agreed together that the plaintiff's family should go to the police, declare that the whole case was a mistake from beginning to end, and that the old man Ibrahim had fallen off the wall, and that nobody had thrown a stone at him. A document to this effect was drawn up, signed and sealed by the notables of Ibrahim's family, and solemnly presented to the police. The evidence seemed so genuine that Ali was released from prison, with implied apologies for wrongful arrest. On his release from prison Ali saw his opportunity, and by some means obtained possession of this document signed by Ibrahim's family.

When the case first came up for trial by Ourfi court, Ali denied throwing the stone, repudiated all responsibility

8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

in the case, and produced this document signed by Ibrahim's family to the effect that Ibrahim *fell* off the wall and broke his leg. How then could he possibly be implicated in the case?

The assessors of the court went carefully into all the evidence and eventually agreed that the matter should be decided by the oath. They demanded that Ali, backed by twenty-five men of his own tribe, chosen by Ibrahim's family as men of their word, should swear on the tomb of Sidi Shar el Ruh the following oath: "By Allah the Great and by the Truth of this Holy Sheikh, I swear that I neither threw a stone at Ibrahim, nor broke his leg." They further decreed that if Ali himself, or any one of the twenty-five men chosen to back him in his oath, failed or refused to swear as required, the case for the defence would be null and void, and that bloodmoney would be required in full from Ali's family.

On the date appointed two or three sheikhs of the court were detailed to go to the tomb, to meet the defendant with his twenty-five backers, and to supervise the taking of the oath. The parties duly arrived; but when the oath was just about to be taken, three men of Ali's backers refused to swear, declaring that on the contrary they were ready to swear, if required, that Ali *had* thrown the stone, and was responsible for Ibrahim's death. The case for the defence thus fell to the ground, and the parties were warned to appear at a future date, when the case would be completed. At the next meeting of the court, Ali's liability to pay bloodmoney was accepted in principle, but there were divergencies of opinion as to the amount to be paid. Then followed a delightful example of casuistry typical of the Bedou mind.

The assessors of the court felt that, in the first instance, Ali had never intended to kill poor old Ibrahim, and that his crime fell very far short of intentional homicide. Also, it had happened seven years before, and, all said and done, time had healed most of whatever ill-feeling there ever

8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

233 wandered over the boundary of Abd el Salam's grazing
685 rights. The juvenile members of Abd el Salam's family
[578] came out from their tents in a body, to drive off their intruding second cousins with their camels. An altercation ensued, and the excitement grew; and eventually a pitched battle with sticks and stones began among the lads.

683 One of Abd el Kerim's sons, leaving his brother to hold on for a moment, ran back the half mile to call his father, who returned with him to the scene of the fight carrying his gun. On arrival at the camels, Abd el Salam's sons set on him in a body. Abd el Kerim pointed his gun at one of them and took aim; whereupon one of the other family from behind laid him low with a blow on the top of his head, sufficient to fell an ox.

[114] Abd el Kerim was carried back to his tent, where the writer witnessed the horrible sight of sympathetic but homicidal relatives pawing his open wound with their filthy fingers. A large hole had been knocked in the side of his head, and portions of brain were visible. After some months of surgical treatment Abd el Kerim came out of
[694] hospital; and, as the blow was reported to have affected his reason, a case was brought on his behalf by some of his relatives, claiming damages from the family of Abd el Salam. However, before the case was fully completed,
[682] Abd el Kerim was taken ill, was re-admitted to hospital, and died. The case therefore became one of bloodmoney, and was dealt with in the usual way.

683 The interesting point about the case, however, lies in
682 the decision of the court, when the first claim for damages was brought up. A very strong line was adopted by the
695 sheikhs, and in the opinion of the court the wounds re-
672 ceived by Abd el Kerim were only what he might reasonably expect. They maintained that, after the way in which he had behaved, he was lucky to have got off as lightly as he did. The sheikhs protested that he ought never to have gone out from his tent, and mixed himself up in a fight between a lot of boys. If he had any authority at all, he

8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

charge, which hit Towida at a range of only a few feet, with fatal results.

Farag, who had divorced her two months before, brought a claim for bloodmoney from Korayem; but when the case was heard, Korayem denied that the accident had happened in his tent. The assessors of this first court, which was held soon after the accident, demanded that Korayem should swear, backed by twenty-five men (i.e. half the full number of fifty, as Towida was a woman), that the accident did not take place in his tent. Then followed an example of one of the very unsatisfactory points in Bedouin Law.

Korayem, who was a powerful man belonging to the Gereidat, who were in turn a powerful family, managed to persuade the court to cancel their judgment requiring the oath from himself and his twenty-five backers, and to agree to a settlement whereby he should pay £10 and be absolved from the necessity of taking the oath. The court accepted this agreement, and proceeded to examine the claims to the bloodmoney.

The Moslem Law of Divorce provides that when a man divorces his wife, the decree does not become absolute for three months, in order that it may be ascertained whether the woman be pregnant by her lately divorced husband. Towida had only been divorced two months before the accident; so the question had to be decided whether Farag were legally her husband or not at the time of her death, for purposes of receiving a share of the bloodmoney. If so, he should receive one quarter; but there seems to have been some difference of opinion on this point among the assessors of the court, and the whole matter was shelved.

Seventeen years afterwards, Lataif Farag—then a man of twenty-one—re-opened the case, claiming his mother's bloodmoney. In support of his claim he produced three witnesses. The first was Farag himself, who was prepared to swear that he had seen Towida lying dead in the tent of Korayem. The second was Towida's brother, who was

8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

prepared to swear that he had been called in; and had seen his sister dying in a pool of blood in Korayem's tent. The third was a stranger who had been passing at the time of the accident, had heard the shot, had gone into Korayem's tent, and had seen Towida lying on the floor in a dying condition. The newly-constituted court probed this evidence, without actually demanding the oath from these three witnesses, and arrived at the following conclusions:

1. That the facts of the case were common knowledge, and were as Lataif claimed.
2. That Korayem never really intended to swear that the accident did *not* happen in his tent, but had succeeded in bluffing the previous Court. This was made possible by the fact that Korayem's family were strong, and Farag's were weak.
3. That half the price of a man—i.e. £150—should be the bloodmoney in this case, provided that Farag could produce satisfactory evidence on oath that:
   (*a*) the gun belonged to Korayem,
   (*b*) the accident took place in Korayem's tent.
4. In the event of these conditions being met, Lataif Farag should receive five-sixths of the £150; and, provided that they swore the above oath backed by four others, Towida's father and mother (if alive) should receive the remaining one-sixth.

Generally speaking, this judgment appeals to an outside observer as eminently sensible and just; and if only the matter had been left at that, and the judgment had been enforced, all would have been well. Unfortunately, however, various influences again crept in to interfere with the decision of this second court. The accident had then happened about eighteen years before; the first court had been bluffed by Korayem; after an interval of seventeen years the second court gave their very reasonable judgment; and then for some reason unexplained the case was again shelved, and the judgment not executed. For the third

8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

682 time the case was re-opened, after a further interval of some
672 years since the second judgment. By this time nearly all
695 the assessors and witnesses of the first Court were dead,
694 rumours had been spread that the gun belonged to a stranger who had left his gun in Korayem's tent, and should therefore pay his share of the bloodmoney, and so on.

The Gereidat family again succeeded in confusing the case, and in prejudicing the issue in their favour; and the third court gave the following decision, to the disgust of interested followers of this rather remarkable lawsuit. They decided that no evidence existed to shew what happened in Korayem's tent, and that no oath was necessary, maintaining that in the absence of any proof whatsoever Farag had no claim. They further ordered a new distribution of the reduced scale of bloodmoney proposed, whereupon the proceedings became completely involved and absolutely unintelligible.

682 The above events point out unmistakably the weak
672 spots in the Ourfi system. Korayem's family were strong,
695 and on two occasions were successful in evading just decisions against them; while the weak family with a strong case had to see justice perverted.

695 When the considered judgment of an Ourfi Court
182 receives authority for prompt and immediate execution
648 from the Government and the police, the Ourfi system is probably the nearest possible approach to the ideal, consistent with the conditions prevailing. But it is an undeniable fact, which must be faced, that without the moral backing of the Civil Power behind the judgments of the Bedouin Courts, miscarriages of justice are possible, and do actually take place.